## Case 5:12-mj-70542-MRGD Document 4 Filed 05/11/12 Page 1 of 1

## UNITED STATES DISTRICT COURT THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing was held on May 11, 2012. Defendant was present, represented by his attorney Varell Fuller AFPD. The United States was represented by Assistant U.S. Attorney Eumi Choi.  / The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and the defendant has been convicted of a prior offense described in 18 U.S.C. § 3142(f)(1) while on release pending trial for a federal, state or local offense, and a period of not more than five (5) years has elapsed since the date of conviction or the release of the person from imprisonment, whichever is later.  This establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community.  At There is probable cause based upon (the indictment) (the faces found in Part IV below) to believe that the defendant has committed an offense  A. for which a maximum term of imprisonment of 10 years or more is prescribed in 21 U.S.C. § 801 et seq., 9 § 951 et seq., or § 955 et seq., OR  B. under 18 U.S.C. § 924(c): use of a fireram during the commission of a felony.  This establishes a rebuttable presumption that no condition or combination of conditions will easeparance of the defendant as required and the safety of the community.  / No presumption applies.  PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE  Thus, the burden of proof shifts back to the United States.  PART III. PROOF (WHERE PRESUMPTIONS REBUTTED OR INAPPLICABLE)  Thus, the burden of proof shifts back to the United States.  PART III. PROOF (WHERE PRESUMPTIONS CREDITED OR INAPPLICABLE)  / The United States has proved to a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. AND/OR  / The United States has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. A	UNITED STATES O v.	F AMERICA, Plaintiff,	Case Number 12mj70542PSG
was present, represented by his attorney Varell Fuller AFPD. The United States was represented by Assistant U.S. Attorney Eumi Choi .  PART I. PRESUMPTIONS APPLICABLE  / The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and the defendant has been convicted of a prior offense described in 18 U.S.C. § 3142(f)(1) while on release pending trial for a federal, state or local offense, and a period of not more than five (5) years has elapsed since the date of conviction or the release of the person from imprisonment, whichever is later.  This establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community.  A there is probable cause based upon (the indictment) (the facts found in Part IV below) to believe that the defendant has committed an offense  A. For which a maximum term of imprisonment of 10 years or more is prescribed in 21 U.S.C. § 801 et seq., 8 951 et seq., or § 955a et seq., OR  B. under 18 U.S.C. § 924(c): use of a firearm during the commission of a felony.  This establishes a rebuttable presumption that no condition or combination of conditions will easonable the appearance of the defendant as required and the safety of the community.  / No presumption applies.  PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE  MAY 1 2012  The defendant has come forward with evidence to rebut the applicable presumptions and the community.  / The defendant has come forward with evidence to rebut the applicable presumptions and the community.  / The defendant has come forward with evidence to rebut the applicable presumptions and the community.  / The defendant has come forward with evidence to rebut the applicable presumptions and the community.  / The United States has proved to a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required, AND/OR  / The United States has proved to a preponderance of the evidence that no		, Defendant.	ORDER OF DETENTION PENDING TRIAL
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PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE  The defendant has not come forward with sufficient evidence to rebut the applicable presumption[s] and he therefore will be ordered detained.  / The defendant has come forward with evidence to rebut the applicable presumption[s] and he therefore will be ordered detained.  / The defendant has come forward with evidence to rebut the applicable presumptions process.  Thus, the burden of proof shifts back to the United States.  PART III. PROOF (WHERE PRESUMPTIONS REBUTTED OR INAPPLICABLE)  / The United States has proved to a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required, AND/OR  / The United States has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.  PART IV. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION  / The Court has taken into account the factors set out in 18 U.S.C. § 3142(g) and all of the information submitted at the hearing and finds as follows:  Defendant, his attorney, and the AUSA have waived written findings.  PART V. DIRECTIONS REGARDING DETENTION  The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a rections facility separate to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeared defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the inted States or on the request of an attorney for the Government, the person in charge of the corrections facility shall deliver the fendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.	appearance of the def	endant as required and the safety	of the community.
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pres. PAUL S. GREWAL

United States Magistrate Judge

AUSA \_\_\_\_, ATTY \_\_\_\_\_, PTS \_\_\_\_